

REMARKS

Claims 1, 5, 6, 13, 15, 16, 22, 23, and 26-28 are pending in the present application. By virtue of this response, claim 26 has been cancelled, and claims 1, 5, 6, 13, 15, 16, 22, and 23 have been amended. New claims 29 and 30 have been added. No new matter has been added. Accordingly, claims 1, 5, 6, 13, 15, 16, 22, 23, and 27-30 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Claim Rejections – 35 U.S.C. § 112

Claims 5, 6, 15, and 16 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Examiner has asserted that the recitation of “at least one” ring or band having markers is not supported by the specification. In order to expedite prosecution, Applicant has amended claims 5, 6, 15 and 16 to remove the language “at least one”, thereby rendering this rejection moot. Accordingly, Applicant respectfully requests that the rejection of claims 5, 6, 15, and 16 under 35 U.S.C. § 112, first paragraph, be withdrawn.

Claims 1, 5, 6, 15, 22, 23, 26 and 27 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant will address each rejection individually.

Regarding claims 1, 5, 6, 22, 26, and 27, the Office Action asserts that the recitation in claim 1 of an apparatus (in the preamble), an aortic annulus stabilizing apparatus, and a sinotubular junction stabilizing apparatus are each indefinite because dependent claims 5, 6, 22, 26, and 27 recite “The apparatus of claim 1.” In order to expedite prosecution, Applicant has amended claim 1 to replace the limitations “an aortic annulus stabilizing apparatus” and “a sinotubular junction stabilizing apparatus” with “an aortic annulus stabilizing device” and “a sinotubular junction stabilizing device” respectively, thereby rendering this rejection moot.

Regarding claims 5 and 15, the Office Action states the limitation “the continuous sinotubular junction stabilizing device” in each claim lacks sufficient antecedent basis. In order to expedite prosecution, Applicant has amended claims 5 and 15 to remove these limitations, thereby rendering the rejection of these claims moot.

Regarding claims 22 and 23, the Office Action states that the limitation “not have a graft or flexible tubular structure” is indefinite, has instead suggested that Applicant place either “prosthetic” or “artificial” prior to the word “flexible.” In order to expedite prosecution, Applicant has followed the Examiner’s suggestion by amending claims 22 and 23 to recite the limitation “not have a graft or prosthetic flexible tubular structure,” thereby rendering this rejection moot.

Regarding claims 26 and 27, the Office Action states the language “a material ... is thinner than surrounding parts” is unclear. By virtue of this response, claim 26 has been cancelled, thereby rendering the rejection of claim 26 moot. Applicant also notes that the rejected language is not found in claim 27 as presented, and thus believes that the rejection of claim 27 under 35 U.S.C. § 112, second paragraph, was a mistake.

For at least the above reasons, all remaining claims rejected under 35 U.S.C. § 112 as amended comply with 35 U.S.C. § 112, second paragraph. Accordingly, Applicant respectfully requests that the rejection of these claims under 35 U.S.C. § 112, second paragraph, be withdrawn.

Allowable Subject Matter

Applicant thanks that Examiner for indicating that claim 28 “would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims” and that claims 16 and 26 would be allowable “if rewritten to overcome the rejections(s) under 35 U.S.C. 112, 2nd paragraph ... and to include all of the limitations of the base claim and any intervening claims.” Applicants have amended all independent claims to include the subject matter indicated by the Examiner as allowable.

Specifically, claims 1 and 13 have been amended to incorporate limitations similar to that of claim 26, specifically that “the inner discontinuous band stabilizer comprises a sewing passage wherein a portion of the inner discontinuous band stabilizer is thinner than surrounding portions of the inner discontinuous band stabilizer” and “the inner continuous ring stabilizer comprises a sewing passage wherein a portion of the inner continuous ring stabilizer is thinner than surrounding portions of the inner continuous ring stabilizer.” Applicant notes that these limitations do not include the language “a material ... is thinner than surrounding parts” that was previously rejected by the Examiner, and thus removes any rejection under 35 U.S.C. § 112, second paragraph. Accordingly, Applicant asserts that claims 1 and 13 are in condition for allowance.

Instead of rewriting claim 28 in independent form, new independent claim 29 has been added to incorporate all of the limitations of claim 28 as well as the limitations from claim 13, from which claim 28 depends. Accordingly, Applicant asserts that claim 29 is in condition for allowance.

New independent claim 30 incorporates all limitations of claim 13 as well as limitations similar to those of claim 16: “wherein the inner discontinuous band stabilizer comprises vertical marks about 2mm from each free end thereof” and “wherein the outer discontinuous band stabilizer comprises vertical marks about 2mm from each free end thereof.” This limitation does not include the language “at least one”, which was previously rejected by the Examiner. Accordingly, Applicant asserts that claim 30 is in condition for allowance.

Because independent claims 1, 13, 29, and 30 are all in condition for allowance, Applicant respectfully requests that the rejections of all pending claims be removed and the application passed to issuance.

Claim Rejections – 35 U.S.C. § 102**Claims 13, 15, and 23**

Claims 13, 15, and 23 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Pat. No. 6,264,691 to Gabbay (“Gabbay”). As noted above, claim 13, from which claims 15 and 23 depend, has been amended to recite implantation of an inner discontinuous band stabilizer, “wherein the inner discontinuous band stabilizer comprises a sewing passage wherein a portion of the inner discontinuous band stabilizer is thinner than surrounding portions of the inner discontinuous band stabilizer,” and implantation of an outer discontinuous band stabilizer, wherein “the inner continuous ring stabilizer comprises a sewing passage wherein a portion of the inner continuous ring stabilizer is thinner than surrounding portions of the inner continuous ring stabilizer.” Gabbay does not teach or disclose such a method. Accordingly, Applicant respectfully requests that the rejection of claims 13, 15, and 23 under 35 U.S.C. § 102(b) be withdrawn.

Claims 1, 6, 22, and 27

Claims 1, 6, 22, and 27 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Pat. Pub. No.2005/0065597 to Lansac (“Lansac”). Independent claim 1, from which claims 6, 22, and 27 depend, has been amended to recite an apparatus comprising an inner discontinuous band stabilizer, “wherein the inner discontinuous band stabilizer comprises a sewing passage wherein a portion of the inner discontinuous band stabilizer is thinner than surrounding portions of the inner discontinuous band stabilizer,” and an outer discontinuous band stabilizer, wherein “the inner continuous ring stabilizer comprises a sewing passage wherein a portion of the inner continuous ring stabilizer is thinner than surrounding portions of the inner continuous ring stabilizer.” The Examiner indicated that such limitations, combined with the other limitations from claim 1, are allowable over the cited references. Accordingly, Applicant respectfully requests that the rejection of claims 1, 6, 22, and 27 under 35 U.S.C. § 102(b) be withdrawn.

Claim Rejections – 35 U.S.C. § 103(a)

Claim 5 stands rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Lansac in view of U.S. Pat. Pub. No. 2003/0069593 to Tremulis et al. (“Tremulis”). Claim 1, from which claim 5 depends, has been amended to recite an apparatus comprising an inner discontinuous band stabilizer, “wherein the inner discontinuous band stabilizer comprises a sewing passage wherein a portion of the inner discontinuous band stabilizer is thinner than surrounding portions of the inner discontinuous band stabilizer, ” and an outer discontinuous band stabilizer, wherein “the inner continuous ring stabilizer comprises a sewing passage wherein a portion of the inner continuous ring stabilizer is thinner than surrounding portions of the inner continuous ring stabilizer.” The Examiner indicated such limitations, combined with the other limitations from claim 1, are allowable over the cited references. Accordingly, Applicant respectfully requests that the rejection of claim 5 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child, or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 677062000200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: August 20, 2010

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